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MICHIGAN LIQUOR CONTROL COMMISSION
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Memorandum

DATE: November 7, 2013
TO: Kerry Krone
FROM: Steve Robinson and Julie Wendt
SUBJECT: SB 507– Payment of Wine and Mixed Spirit Drink Excise Taxes

SB 507 amends section 301 of the Michigan Liquor Control Code of 1998 (Code) regarding the collection of wine and mixed spirit drink tax by the Michigan Liquor Control Commission (Commission). Currently, if the wine or mixed spirit drink is manufactured outside the state of Michigan, the wine or mixed spirit drink tax report and wine tax of 13.5 cents per liter on all wines containing 16% or less of alcohol by volume, 20 cents per liter on all wines containing more than 16% alcohol by volume, and 48 cents per liter is paid by the Outstate Seller of Wine or Outstate Seller of Mixed Spirit Drink when the wine or mixed spirit drink is shipped into the state. This tax is paid monthly. There are 757 licensed Outstate Sellers of Wine and 29 Outstate Sellers of Mixed Spirit Drink.

Similarly, if the wine or mixed spirit drink is manufactured in Michigan, the wine or mixed spirit drink tax reports and wine or mixed spirit drink tax is paid by the wine maker, small wine maker, or mixed spirit drink manufacturer when the wine is sold to the consumer, retailer, or wholesaler or the mixed spirit drink is sold to the wholesaler. There are 206 Small Wine Makers, 5 Wine Maker, and 3 Manufactures of Mixed Spirit Drink currently licensed.

Under SB 507, if the wine or mixed spirit drink is manufactured outside of Michigan, the wholesaler assigned to distribute the wine or mixed spirit drink would be required to pay the tax; however, the tax would only be paid on the number of liters sold by the wholesaler and the Commission could not require the wholesaler to pay the tax more frequently than quarterly. If the wine or mixed spirit drink is manufactured in Michigan the wine tax will continue to be paid by the wine maker or manufacturer of mixed spirit drink that manufactured the wine or mixed spirit drink, unless the wine maker or manufacturer of mixed spirit drink designates the wholesaler assigned to distribute the wine or mixed spirit drink to pay the tax. Similarly, the wholesaler would only pay the wine tax or mixed spirit drink tax on the number of liters sold by that wholesaler and the Commission could not require the wholesaler to pay the tax more frequently than quarterly.

Issues:

1. At this time the Commission collects the tax from the Outstate Sellers of Wine and Outstate Sellers of Mixed Spirit Drink at the time the wine or mixed spirit drink is shipped into Michigan and sold to the wholesaler on a monthly basis. Under SB 507 the wholesaler would only pay the wine tax or mixed spirit drink tax on a quarterly basis and only on the liters sold, not the liters received. It is suggested that the wholesalers be required to file tax reports on a monthly basis to protect the revenue stream for the state of Michigan.
2. The Outstate Sellers of Wine and Outstate Sellers of Mixed Spirit Drink are required to provide invoices/computer reports of wine or mixed spirit drink sold to the wholesalers under R 436.1725 and the wholesalers are required to file with the Commission the invoices of what was purchased from the Outstate Sellers of Wine and Outstate Sellers of Mixed Spirit Drink under R 436.1720. However, under SB 507 the wholesalers will only pay tax on the liters sold. Therefore, it will be extremely difficult to determine if the proper tax is being paid by the wholesaler since it will not necessarily be paid in the same month as it is shipped into the state and purchased by the wholesaler and not necessarily in the same quantity. It is suggested that wholesalers be required to report the liters of wine received from the Outstate Seller of Wine (Domaine St. George, E & J Gallo Winery, Sutter Home Winery, Inc. etc.) or Outstate Seller of Mixed Spirit Drink as well as the tax paid on the liters. It is also suggested that language be inserted that wholesalers pay the tax on the liters sold to retailers to avoid confusion on who pays the tax on wholesaler to wholesaler sales. These changes would provide the Commission with some way to ensure that the proper tax is being paid since the Outstate Seller of Wine and Outstate Seller of Mixed spirit Drink is currently required by R 436.1725 to report all wine and mixed spirit drink sold, delivered or imported into the state during the previous calendar month.
3. If the wine maker or manufacturer of mixed spirit drink that manufactures wine or mixed spirit drink in this state designates the wholesaler to pay the tax on behalf of the wine maker or manufacturer of mixed spirit drink, it is suggested that the wholesaler be required to provide that designation to the Commission so the Commission would be aware of whether to expect a tax report from that wine maker or manufacturer of mixed spirit drink.
4. Although the Commission is authorized to establish by rule a method for collection of the tax, it is suggested that, minimally, language be inserted in this bill to require wholesalers to file a tax report by the fifteenth of each month on all wine and mixed spirit drink purchased from each Outstate Seller of Wine and Outstate Seller of Mixed Spirit Drink; the number of liters of wine and mixed spirit drink sold by the wholesaler reflected by each Outstate Seller of Wine and Outstate Seller of Mixed Spirit Drink, and to pay the tax on the wine and mixed spirit drink sold. In this way there will be no lapse in the enactment of the bill and

the ability of the Commission to promulgate rules to require the filing of the wine and mixed spirit drink tax report and the payment of the tax on a monthly basis.

5. There are numerous Outstate Sellers of Wine that hold Direct Shipper licenses. It is suggested that it is made clear in the statute that the Outstate Sellers of Wine would remain responsible for filing taxes on the wine shipped directly to customers in Michigan.

